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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,314	03/10/2005	Johannes Rietschel	266946US2PCT	9596
22850	7590	03/28/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CABRERA, ZOILA E	
			ART UNIT	PAPER NUMBER
			2125	
DATE MAILED: 03/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/527,314	RIETSCHEL, JOHANNES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Zoila E. Cabrera	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 January 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 15,16 and 18-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15,16 and 18-28 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Final Rejection*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 15-16, 18-28 are presented for consideration.

### *Claim Rejections - 35 USC § 103*

2. Claims 15-16 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cler** (US 4,897,798) in view of **Brown** (US 6,862,529).

Regarding claims 15-16, 18, 24, 25, and 28 Cler discloses:

Claim 15 (New): A method for controlling thermal flows in at least one building, according to which means for controlling temperature; within the building are controlled based on a plurality of input parameters, wherein the means for controlling the temperature control the temperature of a specific space, or at least of an area of a specific space, under consideration and are actuated by using, as input parameters (Fig. 2);

- a) at least one target value and/or a desired temperature of the specific space (Col. 2, lines 10-17)
- b) at least one general parameter characteristic; of at least one variable inside and/or outside the building, which parameter at least indirectly controls the temperature within the specific space (Col. 4, lines 10-13); and

c) at least one specific parameter characteristic of specific thermal flow conditions of the specific space, or of the area of the specific space, under consideration (Col. 3, line 38- Col. 5, lines 41);  
and control of the means for controlling the temperature is calculated from these input parameters in a control unit (Fig. 1, element 102; Fig. 2).

Claim 16 (New): The method as claimed in claim 15, wherein the means for controlling the temperature includes at least one heater and/or at least one air conditioning system and/or at least one ventilation system and/or at least one device for controlling solar radiation into the space (Fig. 1, element 101).

Claim 18 (New): The method as claimed in claim 15, wherein the at least one general parameter (b) is a parameter, or a selection from the following parameters, measured by sensors: temperature on the outside of the building under consideration (Col. 4, lines 12-13, please note that only one parameter is required); humidity on the outside of the building under consideration; wind on the outside of the building under consideration; solar radiation on the outside of the building under consideration; wherein these general parameters (b) are measured at a plurality of locations with different climatic controls (Col. 5, lines 50-55).

Claim 24 (New): The method as claimed in claim 15, wherein the value of the temperature in the specific space under consideration and/or the value of the temperature in adjacent specific spaces under consideration are used as input parameters (Col. 5, lines 50-55).

Claim 25 (New): The method as claimed in claim 15, wherein the at least one specific parameter (c) is one of, or a selection from, the following parameters: window face (Col. 4, line 2; Col. 3, lines 51-52); insulation state; orientation of the space under consideration with respect to a cardinal direction and solar radiation; shadowing by adjacent buildings and/or vegetation - if appropriate season-specifically - or topography; height of building above sea level; coordinates of the building;

wherein these specific parameters (c) are either determined once and input into the control unit, (Col. 4, line 20 – Col. 5, line 41; Fig. 2). and/or wherein an entire control of at least some of the specific parameters (c) is determined automatically by the control unit in a continuous adaptation process taking into account the control of the general parameters (b) and the executed actuation of the means for temperature control on the value that is actually brought about in the specific space.

Claim 28 (New): A data processing program for carrying out a method as claimed in claim 15 in a control unit (Fig. 1, elements 102-103; Fig. 2).

Regarding claims 15, 19-23 and 26-27, **Cler** discloses the limitations of claim 15 above and further discloses, regarding claim 26, at least one control unit with which means for controlling the temperature within the building under consideration are controlled, a plurality of sensors for determining the parameters (b, c) (Fig. 1, elements 102-103, 105). However, **Cler** does not disclose some limitations of claims 15, 26, and the limitations of claims 19-23, and 27. But **Brown** discloses such limitations as follows:

As for claim 15, wherein the control unit has access to a database in which historical values of the parameters (b, c) and the target values (a) of the specific space under consideration and/or the specific building under consideration are contained, wherein the control of the means for controlling the temperature is carried out based on the input parameters taking into account said historic values, and wherein the control of the means for controlling the temperature based on the input parameters is in an adaptation process while taking into account said historic values (Col. 7, line 36 to Col. 8, lines 4, i.e., environmental indicators that measure temperature...environmental indicators provide an environmental *history* for a particular controlled environment that may be transmitted to other data processing systems for further analysis. Abstract, i.e., *An environment indicator analyzes the multiple environment indicators received at the data processing system according to the environmental sensitivity profile and determines control signals for adjusting multiple environmental control system that control the particular environment*)

Claim 19 (New): The method as claimed in claim 18, wherein information about the weather forecast, of the region, is additionally used as a general parameter (b), and/or wherein sunrise and sunset are additionally calculated and are used for the control (Col. 8, lines 38-42; Col. 7, lines 63-66).

Claim 20 (New): The method as claimed in claim 18, wherein the general parameters (b) are transferred periodically or continuously to the control unit at least partially via a cabled or cableless network, via at least one of a LAN, wireless LAN,

GPRS, using standard protocols of at least one of SMTP, ftp, http (Fig. 2; Col. 7, lines 48-56; Col. 4, lines 61-67).

Claim 21 (New): The method as claimed in claim 18, wherein the general parameters (b) are measured at at least one other building, and are further used as input parameters, wherein the at least one other building is arranged adjacently or at a distance that is relevant for the climate of the building under consideration, wherein such general parameters (b) of the at least one other building are taken into account as a function of the weather forecast and/or the wind direction and/or the wind speed (Fig. 2, elements 56a to 56n; Col. 6, lines 30-31; Fig. ).

Claim 22 (New): The method as claimed in claim 21, wherein the input parameters from the at least one other building are transmitted, or made available, to the control unit of the building under consideration via the at least one of the www, a WAN, a LAN, and wherein the building under consideration itself makes its data available to the at least one other building in the same way (Fig. 2).

Claim 23 (New): The method as claimed in claim 21, wherein a plurality of buildings make available their general parameters (b) to a database and in each case the control units of other buildings can access the totality of this data (Fig. 2).

Claim 26 (New): A device for controlling the thermal flows in at least one building using a method as claimed in claim 15, comprising: configured to access a weather forecast, and a communications network, in a form of a LAN, WAN, www, via which the parameters (b, c) are transferred from the sensors to the control unit or via which the weather forecast is transferred to the control unit (Figs. 3, 4).

Claim 27 (New): A control unit for carrying out a method (the same citations applied to claim 15 above apply as well for this claim) as claimed in claim 15, comprising: at least one processor, internal means for storing data, and at least one network interface, wherein a database on which the data of the input parameters and the actually achieved target values are continuously recorded is provided in the means for storing data, and wherein the control unit is configured such that means for temperature control are actuated based on instantaneous input parameters taking into account the history contents of the database in an optimizing and learning fashion (Fig. 2; Col. 7, line 36—Col. 8, line 4)

Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the adaptive environment control system of **Cler** with the system of **Brown** because it would provide an improved system for managing multiple diverse environmental measurement devices and further for managing a particular environment (Col. 2, lines 40-45).

#### ***Response to Arguments***

3. Applicant's arguments filed January 3, 2006 have been fully considered but they are not persuasive. In response to applicant's statement that the data measured by the environmental measurement devices can be stored in the personal device. Examiner points out that Brown teaches that the data can be stored in a non-volatile data storage

medium that is accessible to computer system 10 (Col. 7, lines 13-36, please note that the computer 10 may further comprise an analyzer application). Applicant further contends that Brown is silent about any feedback in the sense that these logged data might be used for the control of multiple environmental control systems. Examiner disagrees because Brown teaches that *the analyzer application executed on a data processing system analyzes the multiple environment indicators received at the data processing system according to the environmental sensitivity profile and determines control signals for adjusting multiple environmental control systems that control the particular environment* (Abstract). Lastly, Applicant contends that Brown is silent about any possibility to adapt the actual control of the means of controlling the temperature based on historic data in an adaptation process. Examiner disagrees because Brown teaches environmental indicators that measure temperature and further teaches that environmental indicators provide an environmental exposure *history* for a particular controlled environment for further analysis (Col. 7, line 57 to Col. 8, line 4).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit 2125 are (571) 273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.



Zoila Cabrera  
Patent Examiner  
3/17/06